

★ SEP 30 2013 ★

BROOKLYN OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
ANDERSON SCRUBB,

Petitioner,

- against -

THOMAS LAVALLEY,

Respondent.
-----X

AMON, Chief United States District Judge.

NOT FOR PUBLICATION
MEMORANDUM & ORDER
10-CV-03286 (CBA) (JO)

Anderson Scrubb, proceeding pro se, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. He seeks to vacate his New York state conviction following a jury trial for second degree murder and fourth degree grand larceny. Scrubb challenges his conviction claiming that: (1) he was deprived of his right to be free of unreasonable seizures under the Fourth Amendment when he was involuntarily taken into custody; (2) the allegedly unlawful seizure violated his right to due process of law under the Fourteenth Amendment; and (3) the prosecution's failure during his suppression hearing to elicit testimony from the detective to whom he gave his consent to be transported for questioning to the police precinct deprived him of his Sixth Amendment right to confront his accusers. The Court referred this matter to Magistrate Judge James Orenstein, who issued a Report and Recommendation ("R&R") on August 1, 2013, recommending that the Court deny Scrubb's petition.

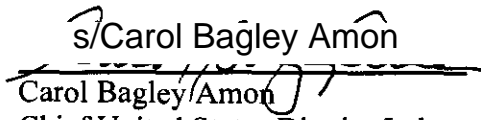
Neither party has objected to the R&R and the time for doing so has passed. When deciding whether to adopt a R&R, a district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). To accept those portions of the R&R to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." Jarvis v. N.

Am. Globex Fund, L.P., 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011) (internal quotation marks and citation omitted). The Court has reviewed the record and, finding no clear error, hereby adopts Magistrate Judge Orenstein's R&R as the opinion of the Court.

Accordingly, the Court denies Scrubb's petition for a writ of habeas corpus. Since Scrubb has failed to make a "substantial showing of the denial of a constitutional right," a Certificate of Appealability shall not issue. 28 U.S.C. § 2253(c). The Clerk of the Court is directed to enter judgment and to close the case.

SO ORDERED.

Dated: Brooklyn, New York
September 30, 2013


Carol Bagley Amon
Chief United States District Judge